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Finance

FEDERAL TAXES

This pamphlet provides the information and procedures for Civil Air Patrol and its members regarding federal taxation.

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1. Scope:

a. **Federal Laws and Regulations.** Civil Air Patrol, its members, and contributors are subject to various federal tax laws and regulations, the scope of which is outlined herein.

b. **Administrative Actions.** The Internal Revenue Service requires that Civil Air Patrol take certain administrative actions pertaining to such tax laws and regulations. The scope of these actions is covered in the following paragraphs.

2. References:

a. Internal Revenue Code of 1954, § 501(c)(3), as amended; 26 U.S.C.A. § 501(c)(3).

b. Tax Ruling, T:R:POE:3, dated 17 April 1958, by Director, Tax Rulings Division; Tax Ruling, 24 February 1965, by Chief, Exempt Organizations Branch.

3. **Federal Income Tax Returns.** No subordinate unit of the Civil Air Patrol is currently required to file a federal income tax return. A consolidated tax return for all units of Civil Air Patrol is filed by National Headquarters.

4. Reports of Changes in Character, Purpose, or Method of Operation:

a. National Headquarters, Civil Air Patrol, must immediately report to the National Office of the Internal Revenue Service any changes in the Civil Air Patrol's character, purpose, or method of operation which may affect its tax exempt status under § 501(c)(3) of the 1954 Internal Revenue Code.

b. Each subordinate unit of Civil Air Patrol shall report to National Headquarters any changes in its character, purpose, or method of operation. Such reports should include, but not be limited to, the following:

(1) Any nonbenevolent or noneducational purpose or method of operation that the unit might adopt.

(2) Any instance of corporate assets being used, in any way, for the personal benefit of a Civil Air Patrol member.

(3) Any attempt by the unit or members thereof, as such, to influence legislation.

(4) Any participation or intervention by the

Supersedes CAP Regulation 173-2, 18 January 1966. (For summary of revised, deleted, or added material, see page 5.

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unit or any members thereof, as such, in any political campaign on behalf of any candidate for public office.

(5) Any business activity conducted by the unit not substantially and primarily related to the performance of its objects and purposes.

5. Rulings:

a. CAP is exempt from federal income tax only so long as it continues to be organized and operated exclusively for purposes set out in §501(c)(3) of the Tax Code. An organization operated for the primary purpose of carrying on a trade or business for profit shall not be exempt on the ground that all trade or business for profits therefrom is payable to exempt purposes (Tax Ruling, 28 January 1952, by Deputy Commissioner).

b. **Rules Pertaining to Certain Business Activities.** As long as CAP is not operated for the primary purpose of carrying on a trade or business where it engages in any business activity not substantially related to the performance of its charitable or educational purposes, it will be entitled to retain its tax exempt status but will be subject to federal income tax on the gross income derived by it from any such business activity regularly conducted, less deductions.

c. **Determination of Specific Cases.** Whether CAP will be subject to the tax above depends on the facts in each case, including, among other things:

(1) Whether the business is regularly carried on.

(2) Whether the primary purpose of the business is to further (other than through the production of income) the purpose for which the organization is granted exemption and is substantially related to the organization's exempt purposes.

d. Business activity, as used above, does not include any trade or business (1) where substantially all the work in carrying it on is performed for CAP without compensation, (2) where the business is carried on by CAP primarily for the convenience of its members, or (3) where the business is in selling of merchandise, substantially all of which has been received by the CAP as gifts or contributions (see §513 of the Tax Code).

6. Annual Report of Status of Operations:

a. National Headquarters, Civil Air Patrol, must compile, within 45 days of the close of the fiscal year (30 June), machine run copies of the names, mailing addresses (with ZIP codes), and employee identification numbers of any subordinate units of

the Civil Air Patrol which, during the year, have changed names or addresses or were newly activated or deactivated. On behalf of newly activated units, there must be submitted a statement showing that the addition does not change the corporation's tax exempt status, a statement showing that Civil Air Patrol is authorized to add the new unit to its roster, a list of the units to which IRS previously issued exemption rulings or determination letters, and a statement that none of the added subordinate units of Civil Air Patrol are private foundations.

b. These lists must be accompanied by a statement by one of the corporation's primary officers as to whether the information heretofore submitted regarding the character, purpose, and method of operation of the corporation is applicable in all respects to the organizations (CAP units) appearing thereon.

c. The above lists and accompanying statement are forwarded to the Philadelphia Service Center, 11601 Roosevelt Boulevard, Philadelphia, Pennsylvania 19155.

7. Tax Law Applicable to Civil Air Patrol:

NOTE: The following summary is intended to furnish a simplified but necessarily incomplete description of the tax laws applicable to Civil Air Patrol, its contributors, and members. Although it is based upon actual decisions of the Internal Revenue Service, it is unofficial and under no circumstances may be used as authority to support any position. It will serve only as a guide in the conduct of CAP business. Except where especially indicated otherwise, the following materials are abbreviated from tax rulings of the Internal Revenue Service, US Treasury Department, and/or the Internal Revenue Code (IRC), and materials from any other sources are not included. This summary was brought current as of 25 August 1977.

a. Federal Income Tax:

(1) Ruling. CAP, including its wings and subordinate units, is currently exempt from federal income tax on the basis that it is an organization described in §501(c)(3) of the 1954 IRC, as CAP is currently organized and operated exclusively for charitable and educational purposes (Tax Ruling, 19 October 1976, by Chief, Exempt Organization Returns Branch).

(2) History. This exemption originally became effective in 1947 (see Tax Ruling, 14 August 1947, by Deputy Commissioner). Under §101(6) of the 1939 IRC (the code section operative in 1947 comparable to the present §501(c)), which was operative at that time, CAP was exempt by virtue of being organized and operated exclusively for

educational purposes. It appears that CAP was considered to have such status up to a 17 April 1958 tax ruling that the CAP was a charitable and educational organization. This determination is now made annually.

b. **Taxes on Amounts Paid for Telephone, Telegraph, Etc., Services.** Exemption is authorized from taxes imposed by §3465 of the 1939 IRC on telephone, telegraph, cable, radio, and leased wire services or facilities furnished directly to the US and paid for directly by the US. This exemption is applicable with respect to authorized direct disbursements by the USAF in payment for such service or facilities furnished to CAP. It is not so extended if such services or facilities were paid for by disbursements from the private funds of CAP or the personal funds of its members.

c. **Propaganda and Other Attempts To Influence Legislation: Participation or Intervention in Political Campaigns:**

(1) General. In accordance with the provisions of §501(c)(3) of the 1954 IRC, the exemption of CAP (its regions, wings, and units) will be revoked if any substantial part of the corporation's activities (or those of such regions, wings, or units) consists of carrying on propaganda or otherwise attempting to influence legislation or if CAP (or its subordinate units) participates in or intervenes in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office.

(2) Attempts to Influence Legislation. Whether a substantial part of the total activities constitutes an attempt to influence legislation is a factual question, and a determination must be made in each specific case. Principal factors to be considered in determination thereof are:

(a) Primary or basic purposes of the organization concerned.

(b) General nature and extent of activities necessary to accomplish such purposes.

(c) Whether the extent to which the corporation devotes itself to legislative matters constitutes a material part of the general program deemed necessary to accomplish its primary or basic purposes (Tax Ruling, 18 March 1955, by Chief, Pensions and Exempt Organizations Branch).

(3) Effect of Members' Acts. Support of or opposition to proposed legislation by members of CAP, as *individuals*, does not adversely affect tax exempt status of CAP, as long as they are not acting

as representatives of CAP or in such manner as to identify their support or opposition with CAP (Tax Ruling, 18 March 1955, by Chief, Pensions and Exempt Organizations Branch).

8. Civil Aircraft Excise Tax:

a. **Ruling.** Public Law 91-258 established broad goals for and means of improving national transportation systems. Part of the revenues for the transportation system is provided through an excise tax on all civil aircraft. The tax imposed is a basic charge of \$25 annually on each airplane, \$.02 per pound on that part of the maximum certificated takeoff weight of any nonturbine civil airplane which exceeds 2,500 pounds, and \$.035 per pound for each pound of the maximum certificated takeoff weight for turbine powered aircraft.

b. **History.** Construction given that enactment by the Internal Revenue Service is that Civil Air Patrol aircraft are "civil aircraft" and are not exempted from the tax either because of the income tax exempt status or because of the role of Civil Air Patrol as an auxiliary of the Air Force (see letter, 9 November 1970, by Acting Chief, Excise Tax Branch). Therefore, the excise tax and poundage surcharge are ruled applicable to Civil Air Patrol; the tax is payable annually and is to terminate on 1 July 1980 (IRC §4491e).

9. **Federal Aviation Fuel Tax.** A tax of \$.07 a gallon is imposed upon any liquid sold by any person to an owner, lessee, or other operator of an aircraft for use as fuel if such aircraft is noncommercial aviation or if it is used by any person as a fuel in an aircraft in non-commercial aviation. The CAP is liable for such tax.

10. **Highway Motor Vehicle Use Tax.** A tax is imposed on the use of any highway motor vehicle which has a taxable gross weight of more than 26,000 pounds at the rate of \$3 for a year for each 1,000 pounds of taxable gross weight or fraction thereof. For the taxable period beginning 1 July 1979 and ending 30 September 1979, the tax will be at the rate of \$.75 per 1,000 pounds of taxable gross weight or fraction thereof. The CAP has claimed exemption from such tax. All matters concerning this tax should be referred to National Headquarters, CAP, until an IRS ruling is obtained.

11. Tax Law Applicable to Contributors of Civil Air Patrol:

a. Individuals:

(1) Charitable Contributions:

(a) General. Contributions made to

CAP, its wings, and subordinate units appearing on the lists submitted to the Internal Revenue Service are deductible by the donors in computing their taxable income in the manner provided by §170 of the 1954 IRC (Tax Ruling, 17 April 1958, by Director, Tax Rulings Division).

(b) **Percentage Permitted.** Contributions made by individuals of money and nondepreciable property to CAP qualify as deductions to the extent of the limitation of 50 percent of adjusted gross income (see §170(b)(1)(A) of the IRC) (Tax Ruling, 17 April 1958, by Director, Tax Rulings Division).

(c) **Donation of the Use of Property.** Permission granted to CAP to use and occupy either personal property or real property does not represent a payment made to or for the use of CAP and the owner thereof is not entitled to deduct the value of such use and occupancy in his or her federal income tax return (I.T. 3918, C. B. 1948-2, 33) (Tax Ruling, 21 November 1957, by Chief, Individual Income Tax Branch and Rev Ruling 58-279).

(d) **Valuation of Donation.** If the contribution or gift is other than money, the basis for the calculation of the amount thereof shall be the fair market value of the property at the time of donation, unless the gift is depreciable property (see §1245)(see §1.170-1(c) of Income Tax Regulations (1954)). However, there are exceptions if the gift is of appreciated property. If the gift is of property which, if sold, would give rise to ordinary income, the deduction is limited to the fair market value of the property less the amount which would be ordinary income. Gifts of property which, if sold, would give rise to long-term capital gain also have a different limitation, depending on the type of property (§170(b)(i)(e), Reg §1.170 A-4).

(e) **Donation of Personal Services.** The value of personal services rendered to a charitable organization is not allowable as a deduction for charitable contributions (§1.170-2(a)(2) of Income Tax Regulations (1954)).

(f) **Unreimbursed Expenses.** Unreimbursed expenditures made incident to the rendering of services to CAP may constitute a deductible contribution (see §1.170-2(a)(2) of Income Tax Regulations (1954)). If the expenditures constitute a deductible contribution, they are deductible, together with other charitable contributions, up to 50 percent of the taxpayer's adjusted gross income.

(g) **Uniforms.** Unreimbursed expenditures for cost and maintenance of uniforms and in-

signia *required* to be worn while performing gratuitous services for CAP and which are without general utility are deductible as contributions (Tax Ruling, 22 April 1958, by Director, Tax Rulings Division).

(h) **Overnight Traveling Expenses.** Unreimbursed overnight traveling expenses away from home, including cost of rail or other transportation, automobile, aviation fuel and lubricants, and subsistence and lodging, while engaged in official CAP activities are also deductible as contributions. The activity must constitute an official activity of CAP (Tax Ruling, 22 April 1958, by Director, Tax Rulings Division). This includes amounts spent for food if away from home overnight.

(i) **Transportation Expenses.** Unreimbursed out-of-pocket expenses incurred for local transportation in order to render gratuitous service to CAP are deductible as contributions. A standard mileage rate of \$.07 per mile may be used in computing the deductible portion of the cost of operating an automobile in rendering the gratuitous services (Rev. Proc. 74-24; 1974-2, CB 477; IIR No. 1299, 8-12-74). Use of this standard mileage rate is not mandatory. The actual expenses exceeding the flat rate may be deducted. Parking and toll fees are deducted separately, even if the standard rate is used.

(j) **Repairs of Damage Due to Accident or Other Identifiable Events of a Sudden, Unexpected, or Unusual Nature.** Expenditures for repairs to privately-owned aircraft and other privately-owned property and equipment damaged in performance of official CAP activities are not deductible as charitable contributions to CAP.

(k) **Repairs and Maintenance:** Other Than in Paragraph 10. Unreimbursed expenses for repairs and maintenance (which are not the result of an accident or other identifiable event of a sudden, unexpected, or unusual nature) that are directly attributable to the use of a privately-owned aircraft and other privately-owned property and equipment in the performance of official CAP activities are deductible as charitable contributions. However, no deduction is allowed for a proportionate share of general maintenance or general repairs of such property (Tax Ruling, 22 April 1958, by Director, Tax Rulings Division; also Revenue Ruling 58-279, CB 1958-1, 145).

(l) **Hospital and Medical Expenses.** Hospital and medical expenses resulting from injuries sustained in connection with official CAP activities are not deductible as contributions to CAP. However, such expenses are deductible as personal itemized deductions, to the extent provided in §213 of the

1954 IRC; Tax Ruling, 22 April 1958, by Director, Tax Rulings Division.

(2) **Federal Estate Tax.** Due to the holding that CAP is organized and operated exclusively for charitable and educational purposes, the amount of bequests, legacies, devises, and transfers made by a deceased individual to or for the use of the CAP or its units is deductible in computing the value of his or her taxable estate for federal estate tax purposes in the manner and to the extent provided in §§ 2055 and 2106 of the 1956 IRC (Tax Ruling, 14 August 1947, by Deputy Commissioner).

(3) **Federal Gift Tax.** Due to the holding

that CAP is organized and operated exclusively for charitable and educational purposes, gifts of property made by an individual to or for the use of CAP or its units are deductible in computing the value of taxable gifts made by the individual during a calendar year for the federal gift tax purposes in the manner and to the extent provided in § 2522 of the 1954 IRC (Tax Ruling, 17 April 1958, by Director, Tax Rulings Division).

b. **Corporations.** A corporation may deduct its charitable contributions to CAP, up to five percent of its taxable income (§ 170(b)(2); Reg 1.170A-11). The general rulings for individuals apply to corporations with the exception of the percentage limitation.

SUMMARY OF REVISED, DELETED, OR ADDED MATERIAL

This pamphlet generally updates the material presented in CAPR 173-2, 18 January 1966, deletes matters relating to repealed taxes, and adds new matters as established by changes in the tax laws.